

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

ARISE VIRTUAL SOLUTIONS, INC.

and

Case 12-CA-144223

MATTHEW RICE

ORDER¹

The Respondent's Motion to Dismiss for Failure to Join a Required Party and Motion to Dismiss for Failure to State a Claim are denied. The Respondent has failed to establish that there are no genuine issues of material fact regarding its assertion that joinder of Certified Client Solutions, LLC is necessary in this case. Further, the Respondent has not shown that the complaint fails to state a claim on which relief can be granted.

Dated, Washington, D.C., October 29, 2015.

MARK GASTON PEARCE, CHAIRMAN

LAUREN McFERRAN , MEMBER

MEMBER MISCIMARRA, dissenting.

For the reasons stated in my partial dissent in *Murphy Oil USA, Inc.*, 361 NLRB No. 72, slip op. at 22–35 (2014) (Member Miscimarra, dissenting), I do not believe that Section 8(a)(1) of the Act prohibits employees and employers from entering into agreements that waive class procedures in litigation or arbitration. Because the General Counsel has only alleged violations that are dependent on the unlawfulness of

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

such an agreement, I would find that the General Counsel failed to state a claim upon which relief may be granted, and grant the Respondent's Motion to Dismiss for Failure to State a Claim.¹

Dated, Washington, D.C., October 29, 2015.

PHILIP A. MISCIMARRA, MEMBER

¹ I find it unnecessary to pass on the Respondent's Motion to Dismiss for Failure to Join a Required Party.